Supreme Court, U. S.
FILED
JUN 25 1976
MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-6289

INEZ MOORE,

Appellant

—vs—

CITY OF EAST CLEVELAND, OHIO,

Appellee

ON APPEAL FROM THE SUPREME COURT OF OHIO

FILED FEBRUARY 26, 1976
PROBABLE JURISDICTION NOTED APRIL 26, 1976

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-6289

INEZ MOORE,

Appellant

—vs—

CITY OF EAST CLEVELAND, OHIO,

Appellee

ON APPEAL FROM THE SUPREME COURT OF OHIO

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Relevant Docket Entries

The Municipal Court of East Cleveland, Ohio

4-3-74 Criminal Complaint filed.

5-17-74 Motion to Dismiss filed along with brief.

5-17-74 Motion to Dismiss based on unconstitutionality of applicable ordinance was overruled. Finding of Guilty upon stipulation of defense counsel. Defendant was fined $25 fine and 5 days. Fine and days suspended if condition corrected by 7-1-74. Execution stayed on condition defendant duly perfects Appeal herein.

6-13-74 Notice of Appeal filed.

Relevant Docket Entries

Court of Appeals of Ohio, Eighth District

1-29-75 Notice of Appeal and Transcript and copies of original papers from East Cleveland Municipal Court filed.

7-28-75 Judgment of the East Cleveland Municipal Court affirmed. Dissenting Opinion.

8-25-75 Notice of Appeal to the Supreme Court of Ohio filed by Appellant.

Relevant Docket Entries

Supreme Court of Ohio

9-24-75 Notice of Appeal and Memorandum of Appellant filed.

11-5-75 Memorandum of Appellee filed.

11-28-75 Motion to Certify overruled. Dismissed sua sponte, no substantial constitutional question involved.

2-20-76 Notice of Appeal to the U.S. Supreme Court filed.

3-10-76 Certified transcript mailed to the U.S. Supreme Court.

CRIMINAL COMPLAINT
THE MUNICIPAL COURT OF EAST CLEVELAND, OHIO

IN THE EAST CLEVELAND MUNICIPAL COURT

[DEFENDANT'S COPY]

COMPLAINT (City Ordinance)

THE STATE OF OHIO)
CUYAHOGA COUNTY) ss.
CITY OF EAST CLEVELAND)

BEFORE ME, Esther W. Patch, Deputy Clerk of the East Cleveland Municipal Court, personally came Raiford Williams who being duly sworn according to law, deposes and says, that on or about the 30th day of January, A.D. 1974, at the City of East Cleveland, County of Cuyahoga and State of Ohio, one Inez Moore being the owner of premises at 1854-56 Garfield including a two family dwelling structure, did unlawfully permit two families to occupy a single family dwelling unit of said structure contrary to the form of an Ordinance of said City in such cases made and provided, to wit: Section 1351.02 of Ordinance 6010. Further deponent sayeth not.

/s/ Raiford Williams

Sworn to and subscribed before me, this 3rd day of April A.D. 1974.

/s/ Esther W. Patch
Deputy Clerk
of the East Cleveland
Municipal Court

MOTION TO DISMISS
THE MUNICIPAL COURT OF EAST CLEVELAND, OHIO

Case No. 163 307

IN THE EAST CLEVELAND MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

CITY OF EAST CLEVELAND

—*vs*—

INEZ MOORE

MOTION TO DISMISS

Now comes the defendant and respectfully moves this Court to dismiss the criminal complaint filed in the above referenced case for the reasons stated in the attached brief.

Respectfully submitted,

/s/ Frank Murtaugh
FRANK MURTAUGH
Attorney for Defendant
Legal Aid Society of Cleveland
2269 Professor Avenue
Cleveland, Ohio 44113
216-696-1560

SERVICE

A copy of this motion was served personally on the Prosecutor of the City of East Cleveland on May 17, 1974.

/s/ Frank Murtaugh
FRANK MURTAUGH

BRIEF

THE ORDINANCES

Section 1351.02 of the Codified Ordinances of the City of East Cleveland, Ohio limits the occupancy of a dwelling unit to one family.

The Code defines family:

1341.08 Family.

"Family" means a number of individuals related to the nominal head of the household or to the spouse of the nominal head of the household living as a single housekeeping unit in a single dwelling unit, but limited to the following:

(a) Husband or wife of the nominal head of the household.

(b) Unmarried children of the nominal head of the household

or of the spouse of the nominal head of the household, provided, however, that such unmarried children have no children residing with them.

(c) Father or mother of the nominal head of the household or of the spouse of the nominal head of the household.

(d) Notwithstanding the provisions of subsection (b) hereof, a family may include not more than one dependent married or unmarried child of the nominal head of the household or of the spouse of the nominal head of the household and the spouse and dependent children of such dependent child. For the purpose of this subsection, a dependent person is one who has more than fifty percent of his total support furnished for him by the nominal head of the household and the spouse of the nominal head of the household.

(e) A family may consist of one individual. (Ord. 5744. Passed 7-66).

FACTS

The defendant has stipulated that the following individuals reside in the dwelling unit in question: Inez Moore, the defendant; John Moore Sr., the defendant's son; John Moore Jr., John Moore Sr.'s son; Dale Moore, the defendant's son; Dale Moore Jr., Dale Moore Sr.'s son. The City of East Cleveland contends that these five people, all blood relatives, are two families.

LEGAL CLAIMS

The City alleges that the Moore family's living arrangement violates Section 1351.02 and 1341.08 of the Codified Ordinances of the City of East Cleveland. The Defendant, at this time, does not challenge the constitutionality of Section 1351.02.

However, Section 1341.08 is unconstitutional on its face. This section violates the defendant's rights:

(a) To Due Process and Equal Protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution in that there is no compelling interest or rational basis to limit occupancy to a "family" as defined in Section 1341.08; *Nectow* v. *City of Cambridge*, 277 U.S. 183, 188 48 S. Ct. 447, 448 (1928); *Euclid* v. *Ambler Realty Company*, 272 U.S. 265, 47 S. Ct. 114 (1926).

(b) To Freedom of Association guaranteed by the First and Fourteenth Amendments to the United States Constitution. *Meyer* v. *Nebraska*, 262 U.S. 390, 399 (1972).

(c) To travel and reside in the place of her choice as guaranteed by the privileges and immunity clause of Article IV, Section 2 of the United States Constitution, and by the First and Fourteenth Amendments to the United States Constitution. *Shapiro* v. *Thompson*, 394 U.S. 618, 89 S. Ct. 1322, (1969).

(d) To Privacy as guaranteed by the First and Fourteenth Amendments to the United States Constitution. *Griswold* v. *Connecticut*, 381 U.S. 479, 495 (1965).

(e) To Due Process and Equal Protection of Laws in that defendant will suffer substantial economic injury and loss if one or both of her sons is required to vacate her home.

Traditional American families have enjoyed a rightfully favored position in the history of American jurisprudence. The ordinance at issue clearly has a detrimental affect on the Moore family and others similarly situated. The ordinance does not represent a valid exercise of delegated state police power. The rights of the defendant and her family must be guaranteed and protected.

For these reasons, the defendant requests that this Court find the ordinance to be unconstitutional and dismiss the complaint.

Respectfully submitted,

/s/ Frank Murtaugh
FRANK MURTAUGH

OPINION AND JOURNAL ENTRY
COURT OF APPEALS OF OHIO, EIGHTH JUDICIAL DISTRICT

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT
COUNTY OF CUYAHOGA

No. 33888

CITY OF EAST CLEVELAND, APPELLEE

—*vs*—

INEZ MOORE, APPELLANT

DATE—July 18, 1975

APPEAL FROM EAST CLEVELAND MUNI. COURT

No. 163,307

JOURNAL ENTRY

This cause came on to be heard upon the pleadings and the transcript of the evidence and the record in the East Cleveland Municipal Court, and was argued by counsel for the parties; and upon consideration, the court finds no error prejudicial to the appellant and therefore the judgment of the East Cleveland Municipal Court is affirmed. Each assignment of error was reviewed and upon review the following disposition made:

On January 16, 1974 the defendant-appellant, Inez Moore, was cited by an East Cleveland deputy housing inspector for violation of Sec. 1351.02 of Ordinance 6010 of the City of East Cleveland. (All references to code sections are to the Ordinances of the City of East Cleveland unless otherwise indicated.) The defendant was residing in her home with her sons, Dale Moore and John Moore, and their sons Dale Moore, Jr. and John Moore, Jr. Sec. 1351.02 provides that a dwelling unit shall be occupied by only one family, and under the

definition in Sec. 1341.08 the defendant, her sons and grandsons constitute more than one family. The notice of violation served upon the defendant alleged that John Moore, Jr., age 7, was an illegal occupant of her dwelling.

The defendant entered a plea of not guilty to the charge and filed a motion to dismiss the action on the ground that Sec. 1341.08 is unconstitutional.

On May 17, 1974 the court denied the motion to dismiss and found the defendant guilty of violating Sec. 1351.02. The court entered judgment against her and she now appeals assigning one error:

> The lower court erred in overruling Appellant's motion for dismissal upon the grounds that the ordinances in question were unconstitutional as violations of Appellant's rights to freedom of association, travel, privacy, and Appellant's rights to equal protection under the laws and due process of law.

The question of the constitutionality of Sec. 1341.08 was before this court in *Hilson* v. *City of East Cleveland* (Court of Appeals No. 30544, 1971) in which we held that the ordinance as applied by Sec. 1351.02 was not unconstitutionally void for vagueness. The two ordinances read as follows:

> "1351.02 LIMITATION ON OCCUPANCY.
>
> "The occupancy of any dwelling unit shall be limited to one, and only one, family and to any authorized persons occupying such dwelling unit with such family."
>
> "1341.08 FAMILY.
>
> "'Family' means a number of individuals related to the nominal head of the household or to the spouse of the nominal head of the household living as a single housekeeping unit in a single dwelling unit, but limited to the following:
>
> "(a) Husband or wife of the nominal head of the household.

> "(b) Unmarried children of the nominal head of the household or of the spouse of the nominal head of the household, provided, however, that such unmarried children have no children residing with them.
>
> "(c) Father or mother of the nominal head of the household or of the spouse of the nominal head of the household.
>
> "(d) Notwithstanding the provisions of subsection (b) hereof, a family may include not more than one dependent married or unmarried child of the nominal head of the household or of the spouse of the nominal head of the household and the spouse and dependent children of such dependent child. For the purpose of this subsection, a dependent person is one who has more than fifty percent of his total support furnished for him by the nominal head of the household and the spouse of the nominal head of the household.
>
> "(e) A family may consist of one individual."

In the instant case, the defendant specifically challenges subsection (d) of Sec. 1341.08 and argues that it is an irrational exercise of legislative power because it so narrowly defines the word "family." She argues further that since she and her two sons and two grandsons are a traditional blood-related family, they should be able to live together in the same dwelling free from unreasonable governmental interference. Yet under the definition of Sec. 1341.08(d) the defendant's family is more than one family and Sec. 1351.02 proscribes their living together in the same dwelling unit.

The defendant contends that Sec. 1341.08 should be struck down because it violates her constitutionally guaranteed "fundamental" rights of association, travel and privacy. Furthermore, she argues that the ordinance transgresses the equal protection and due process clauses of the United States Constitution. For the reasons set

forth below, we find all of these arguments to be without merit.

In *Village of Belle Terre* v. *Boraas* (1974), 416 U.S. 1, the Supreme Court recently considered the constitutionality of an ordinance enacted in a small New York community which defined "family" as,

> "[o]ne or more persons related by blood, adoption, or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants. A number of persons but not exceeding two (2) living and cooking together as a single housekeeping unit though not related by blood, adoption, or marriage shall be deemed to constitute a family."

The constitutionality of the ordinance had been challenged by a group of more than two unrelated students living together as a single housekeeping unit in a single family dwelling. Speaking for the majority of the court which affirmed the constitutionality of the ordinance, Mr. Justice Douglas noted,

> "The present ordinance is challenged on several grounds: that it interferes with a person's right to travel; . . . that it bars people who are uncongenial to the present residents; . . . that the restriction of those whom the neighbors do not like trenches on the newcomer rights of privacy; . . ."
>
> "We find none of these reasons in the record before us. It is not aimed at transients. . . . It involves no 'fundamental' right guaranteed by the Constitution, such as . . . the right of association, . . . or any rights of privacy, . . ."
>
> 416 U.S. at 7.

In *Belle Terre* the Supreme Court held that the town ordinance defining a family involved no "fundamental" right guaranteed by Constitution. That holding is equally applicable to the instant case.

Sec. 1341.08 does not involve the rights of association, travel or privacy nor any other "fundamental" right guaranteed by the United States Constitution. Therefore, the defendant's argument that Sec. 1341.08 violates

her rights of association, travel and privacy is without merit. See also: *Palo Alto Tenants Union* v. *Morgan* (1970), 321 F. Supp. 908 and *Rademan* v. *City of County of Denver* (1974), 526 P. 2d 1325.

Considering the defendant's final contentions—that Sec. 1341.08 is violative of the equal protection and due process clauses—we note that the Constitution of the State of Ohio, Section 3, Article XVIII states:

> "municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws."

The purpose underlying the enactment of all East Cleveland Housing Code Ordinances is set forth in Sec. 1343.02 as follows:

> ". . . to establish minimum standards necessary to make all dwelling structures safe, sanitary, free from fire and health hazards, and fit for human habitation and beneficial to the public welfare; to establish minimum standards governing the maintenance of dwelling structures in such condition as will not constitute a blighting or deteriorating influence on the neighborhood and the community; to protect property values and to maintain the character and appearance of the community and neighborhoods within the community; to fix responsibilities for owners and occupants of dwelling structures with respect to sanitation, repair and maintenance; . . ."

Two reasons for enacting and enforcing Sec. 1341.08 are mentioned by counsel for East Cleveland in his brief: 1) to help alleviate traffic congestion, and 2) to lessen the possible financial burden on the city school system which would result from an inordinate number of school age children residing in a single dwelling which would consequently generate a disproportionately small real estate tax revenue per child.

The defendant failed to present the trial court with any evidence to support her contention that Sec. 1341.08 is violative of the equal protection and due process clauses. Rather she rests on the assertion in her appellate brief, that the ordinance is unreasonable and arbitrary on its face. We disagree.

A municipal ordinance enacted pursuant to the legislative exercise of local police power is valid unless it clearly bears no real and substantial relation to public health, safety, morals or general welfare. *Benjamin* v. *City of Columbus* (1957), 167 Ohio St. 103; *Curtiss* v. *Cleveland* (1959), 170 Ohio St. 127.

As this court recently stated in syllabus 3 of *Alsenas* v. *City of Brecksville* (1972), 29 Ohio App. 2d 255:

> "To prevail in such a case the complainant must also clearly establish that the ordinances he attacks do not bear a real and substantial relation to the public health, safety, morals or general welfare and are, in turn, unreasonable or arbitrary, that is, in substance, that the local legislative authority could not have reasonably believed or, in permitting such legislation to remain in force, cannot reasonably believe that the necessity of regulation in the public interest outweighs, qualitatively, the impact imposed on the individual property owner."

A duly enacted municipal ordinance is presumed to be constitutionally valid. The burden of establishing the unconstitutionality of such an ordinance is upon the one challenging its validity. *Cleveland* v. *Antonio* (1955), 100 Ohio App. 34.

Since the defendant presents no evidence to rebut the presumption of legislative validity, we find that Sec. 1341.08 bears a real and substantial relation to public health, safety or welfare and is, therefore, valid. See

City of East Cleveland v. *Palmer* (1974), 40 Ohio App. 2d 10.

Affirmed.

[Received for Filing Jul. 18, 1975, Gerald E. Fuerst, By Peggy [Illegible]]

It is ordered that appellee recover of appellant its costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the E. Cleve. Muni. Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure, Exceptions.

DAY, P. J., DISSENTS (See dissening opinion attached);

MANOS, J.

SILBERT, J., CONCUR.

(Silbert, J., retired judge of the 8th appellate district, sitting by assignment.)

/s/ Jack G. Day
JACK G. DAY
Presiding Judge

N.B. This entry is made pursuant to the third sentence of Rule 22D, Ohio Rules of Appellate Procedure. This is an announcement of decision, (see Rule 26). Ten (10) days from the date hereof this document will be stamped to indicate journalization, at which time it will become the judgment and order of the court and time period for review will begin to run.

For plaintiff appellee: Leonard Young

For defendant appellant: Frank Murtaugh

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT
COUNTY OF CUYAHOGA

No. 33888

APPEAL FROM
EAST CLEVELAND MUNICIPAL COURT

No. 163,307

CITY OF EAST CLEVELAND, PLAINTIFF-APPELLEE

—*vs*—

INEZ MOORE, DEFENDANT-APPELLANT

DATE—July 18, 1975

JOURNAL ENTRY

DISSENTING OPINION

DAY, J., DISSENTING:

Respectfully, I dissent.

In this case a grandmother was fined $25 and sentenced to five days in jail because two sons and their respective sons, her grandsons, lived with her in a single family house. The judgment and sentence comes about because the defendant's family configuration does not meet the definition imposed by the East Cleveland ordinance which is set out in the margin and underlined.[1]

---

[1] "1341.08 FAMILY.

" 'Family' means a number of individuals related to the nominal head of the household or to the spouse of the nominal head of the household living as a single housekeeping unit in a single dwelling unit, but limited to the following:

"(a) Husband or wife of the nominal head of the household.

"(b) Unmarried children of the nominal head of the household or of the spouse of the nominal head of the household, provided, however, that such unmarried children have no children residing with them.

"(c) Father or mother of the nominal head of the household or of the spouse of the nominal head of the household.

"(d) *Notwithstanding the provisions of subsection (b) hereof, a family may include not more than one dependent married or unmarried child of the nominal head of the household or of the spouse of the nominal head of the household and the spouse and dependent children of such dependent child.* For the purpose of this subsection, a dependent person is one who has more than fifty percent of his total support furnished him by the nominal head of the household and the spouse of the nominal head of the household.

["(e) A family may consist of one individual. (Ord. 5744, Passed 7-26-66.)"]

I.

In 1971 an entry of this court held the ordinance not "unconstitutionally vague", *Hilson* v. *City of East Cleveland,* Case No. 30544. That decision is not dispositive of the present issue. For the vice of that part of the ordinance involved in the instant case is not that it is vague. Its very precision is an element in its unconstitutionality. The interference with a blood related group living as a family, qua family, is arbitrary, unreasonable, and capricious on its face and, therefore, violates due process of law.

II.

Few constitutional rights are more important than the right to determine one's associations without governmental interference, *NAACP* v. *Alabama* (1958), 357 U.S. 449, 460-462, 2 L. Ed. 2d 1488, 1498-1499. The right is invested with special gravity when the association in question involves the family or race, cf. *Loving* v. *Virginia* (1967), 388 U.S. 1, 7-9, 18 L. Ed. 2d 1010, 1015-1016. It is fundamental that even a legitimate governmental objective, when its pursuit affects constitutional rights, is tested by the availability of alternative *means* less threatening to liberty:

> ". . . even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly

achieved. The breadth of legislative abridgment must be viewed in the light of *less drastic means* of achieving the same purpose." (emphasis supplied) *Shelton* v. *Tucker* (1960), 364 U.S. 479, 489; *NAACP* v. *Button* (1963), 371 U.S. 415, 423; *NAACP* v. *Alabama* (1964), 377 U.S. 288, 307-308.[2]

If the ordinable objective is to regulate housing density in the interest of health, safety and welfare—a legitimate city objective and the only discernible one—there "are less drastic means of achieving the same purpose" and the City has, in fact, already utilized one of them.

Ordinance 1351.03 of the City of East Cleveland makes elaborate provision for regulating the condition and size of habitable floor areas in the City including a standard number of square feet per occupant.[3] Without assessing the validity of the standards in Ordinance 1351.03, it is obvious that its density control scheme is an approach less invasive of the right of association and directly relevant to a health, safety and welfare purpose than the definition in Ordinance 1341.08(d).

III.

Whether and to what extent government has constitutional authority to define and regulate living groupings other than a family related by blood can be left to another time. But even if the state may intervene within federally approved limits, see *Village of Belle Terre* v. *Boraas* (1974), 416 U.S. 1, 7-9, 39 L. Ed. 2d 797, 803-804, that does not mean that a state constitution

[2] Indeed the least inhibiting means may be required. See fn. 29 of Mr. Justice Brennan's concurrence in *Abington School District* v. *Schempp* (1963), 374 U.S. 203, 265, 10 L. Ed. 2d 844, 883, and cases collected there.

[3] Ordinance 1351.03(e) provides:

"Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant thereof and at least 100 additional square feet of habitable floor area for every additional occupant thereof, but in no case shall any dwelling unit contain less than 250 square feet of habitable floor area."

may not impose higher obstacles to government interference. Federal constitutional safeguards are a floor not a ceiling, *Oregon* v. *Haas* (1975), —— U.S. ——, 43 L. Ed. 2d 570, 575-576; *Cooper* v. *California* (1967), 386 U.S. 58, 62, 17 L. Ed. 2d 730, 734. But decision in the present case need not founder on *Belle Terre* in any event. For that case is not germane to this case. The ordinance *Belle Terre* approved did *not* define a family to *exclude* persons "related by blood from living together as a family".

IV.

There is another constitutional frailty inherent in Ordinance 1341.08's definition of the family. It does not define a reasonable category which can pass the tests for validity under the equal protection clause.[4]

In utilizing the family definition in issue, a classification was established which is suspect because it involves the fundamental right to association, *NAACP* v. *Alabama*, *id.*, in the privacy of the family, cf. *Loving* v. *Virginia*, *id.* 388 U.S. at 11-12, 18 L. Ed. 2d at 1017-1018; and *Griswold* v. *Connecticut* (1965), 381 U.S. 479, 485-487, 14 L. Ed. 2d 510, 515-516. When it is shown that a classification has these characteristics, the state (city) must show some compelling state interest to justify it, *Shapiro* v. *Thompson* (1969), 394 U.S. 618, 634, 638, 22 L. Ed. 2d 600, 615, 617. At very least the State has not shown a compelling state interest that could not have been satisfied by alternate means.

When the classification is neither suspect nor invasive of a fundamental right, it still must rationally be related to a legitimate governmental goal if it is to avoid the taint of arbitrariness, *Reed* v. *Reed* (1971), 404 U.S. 71, 75-77, 30 L. Ed. 2d 225, 229-230. Rational relationship departs from the classification here when it attempts to regulate the composition of family to ac-

[4] *McGowan* v. *Maryland* (1961), 366 U.S. 420, 6 L. Ed. 2d 393, involved Sunday closing laws. The statutes were upheld using the test that it must stand if "any state of facts reasonably may be conceived to justify it", cf. 366 U.S. at 425-426, 6 L. Ed. 2d at 399. The fundamental rights involved here were not involved in *McGowan* and different principles apply here.

complish an end served as well or better under another ordinance (see fn. 3, *supra*).

Finally, legislation which comports with equal protection must impose its regulation impartially, *Yick Wo* v. *Hopkins* (1886), 118 U.S. 356, 373-374, 30 L. Ed. 220, 227:

> "Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution."

The instant case involves a definition of family so arbitrary and so ill suited to the regulation of population density that the presence of the "unequal hand" is patent. It does "make unjust and illegal discriminations between persons in similar circumstances" with consequences which are material to their rights.

I would declare Ordinance 1341.08(d) unconstitutional in the parts pertinent to this case, reverse the judgment, and discharge the defendant.

JOURNAL ENTRY
THE SUPREME COURT OF OHIO

THE SUPREME COURT OF OHIO
1975 TERM

To wit: November 28, 1975

No. 75-896

THE STATE OF OHIO,)
)
CITY OF COLUMBUS.)

INEZ MOORE, APPELLANT

vs.

CITY OF EAST CLEVELAND, APPELLEE

APPEAL FROM THE COURT OF APPEALS
FOR CUYAHOGA COUNTY

This cause, here on appeal as of right from the Court of Appeals for Cuyahoga County, was heard in the manner prescribed by law, and no motion to dismiss such appeal having been filed, the Court sua sponte dismisses the appeal for the reason that no substantial constitutional question exists herein.

It is further ordered that a copy of this entry be certified to the Clerk of the Court of Appeals for Cuyahoga County for entry.

I, Thomas L. Startzman, Clerk of the Supreme Court of Ohio, certify that the foregoing entry was correctly copied from the Journal of this Court.

Witness my hand and the seal of the Court
this ——— day of ——————— 19——
——————————— Clerk
——————————— Deputy

NOTICE OF APPEAL

IN THE SUPREME COURT OF THE
STATE OF OHIO

No. 75-896

INEZ MOORE, APPELLANT

—*vs*—

CITY OF EAST CLEVELAND, OHIO, APPELLEE

NOTICE OF APPEAL TO THE
SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Inez Moore, the appellant above named, hereby appeals to the Supreme Court of the United States from the final order of November 28, 1975 affirming the judgment of Conviction, entered herein on May 17, 1974.

This appeal is taken pursuant to 28 U.S.C. Sec. 1257 (2).

/s/ Francis Murtaugh, Jr.
FRANCIS MURTAUGH, JR.
Attorney for Inez Moore, Appellant
Legal Aid Society of Cleveland
3408 Lorain Avenue
Cleveland, Ohio 44113

PROOF OF SERVICE

AFFIDAVIT

I, FRANCIS MURTAUGH, JR., Attorney for Inez Moore, appellant herein, depose and say that on the 20th day of February, 1976, I served a copy of the foregoing Notice of Appeal to the Supreme Court of the United States on the City of East Cleveland, Ohio, appellee herein, by mailing a copy in a duly addressed envelope, first class postage prepaid, to its counsel of record, Henry B. Fisher, Director of Law, The City of East Cleveland, 14340 Euclid Avenue, East Cleveland, Ohio 44112.

All parties required to be served have been served.

/s/ Francis Murtaugh, Jr.
FRANCIS MURTAUGH, JR.

Subscribed and Sworn to, before me, at Cleveland, Ohio, this 20th day of February, 1976.

/s/ Francis Murtaugh, Jr.

SUPREME COURT OF THE UNITED STATES

No. 75-6289

INEZ MOORE, APPELLANT

v.

CITY OF EAST CLEVELAND, OHIO

ON CONSIDERATION of the appellant for leave to proceed in forma pauperis,

IT IS ORDERED by this Court that the said motion be, and the same is hereby, granted.

April 26, 1976

SUPREME COURT OF THE UNITED STATES

No. 75-6289

INEZ MOORE, APPELLANT

v.

CITY OF EAST CLEVELAND, OHIO

APPEAL from the Supreme Court of the State of Ohio.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

April 26, 1976

☆ U. S. GOVERNMENT PRINTING OFFICE: 1976 214659 275